



Town of Mesilla, New Mexico

BOARD OF TRUSTEES (BOT)

TOWN OF MESILLA

WORKSESSION

MONDAY, MAY 9, 2022

MINUTES

TRUSTEES: Nora Barraza, Mayor
Stephanie Johnson-Burick, Mayor Pro Tem
Biviana Cadena, Trustee
Veronica Garcia, Trustee
Adrianna Merrick, Trustee

STAFF: Rani Bush, Town Clerk/Treasurer
Gloria Maya, Recorder

PUBLIC: Susan Krueger Anthony Lucero
Algernon D'Ammassa

1. Mesilla Town Code, Chapter 18 – Zoning

Mr. Cervantes: reviewed the NM Attorney General Lexis 1 (opinions and questions), supermajority requirement. Referred to Town of Mesilla Ordinances 18.06.140 and 18.06.160 which addresses appeal process. Reviewed the provisions for an applicant to reapply.

Trustee Garcia: asked if the motion is to deny, will there still need to be three yeses.

Mr. Cervantes: appeal is to change the PZHAC action. Referred to 18.06.160 subsections C and D.

Mayor Barraza: the appeal came to the Board of Trustees; there were two yeses to approve and one to deny the appeal.

Trustee Garcia: the motion made was to deny the appeal; asked is a majority vote needed to pass it.

Mr. Cervantes: no; read article.

Trustee Garcia: if there are three trustees present; one votes no, one votes yes then the mayor would be the tie breaker.

Mr. Cervantes: the motion may have been improperly stated or worded. The ordinance is clear on the process.

Trustee Garcia: first time case came forward Mayor Barraza, Mayor Pro Tem Johnson-Burick and herself were present. Motion made was to deny the appeal; Mayor Barraza and Mayor Pro Tem Johnson-Burick voted yes, she voted no. Second time it came forth to approve and it was denied. She wants to understand which one was right and which one was wrong.

Mr. Cervantes: there needs to be two-thirds majority. A motion is made to challenge PZHAC; three votes were needed to reverse.

Trustee Garcia: asked if they need to give a reason on why we voted the way we did and does there need to be a resolution.

Mr. Cervantes: trustees are not required to explain the vote but can as a courtesy. The more information given helps defend the board's action in court. There is a resolution required for other reasons, variances and special uses. The ordinance is silent for permits.

Trustee Garcia: asked what the timeframe is to file with District Court.

Mr. Cervantes: 30 days. The town currently has a case that did not meet the 30 days; Judge Duran felt the applicant did not receive adequate notice, so the appeal is being allowed to proceed.

Trustee Garcia: the letter was sent 30 days after the decision.

Mr. Cervantes: 30 days upon receipt of the notice. No judge will throw out an appeal with regards to the notice.

Trustee Merrick: understands the town wants to stay out of court. The process to bring something back to the agenda is that there needs to be two trustees making the request.

Mr. Cervantes: he cannot answer that; follow the ordinance at all times.

Trustee Merrick: she is looking at the best course of action.

Mr. Cervantes: recommends allowing the applicant to file an appeal or waiving the one year waiting period to submit application.

Trustee Merrick: asked what the process is.

Mr. Cervantes: there needs to be a motion. The board's action would be to hold a worksession, give Public Notice while following the Open Meetings Act, taking a conservative approach.

Mayor Barraza: she understands that the ordinance states that the board of trustee's decision is final and conclusive.

Mr. Cervantes: that is correct, but the applicant may file again.

Mayor Pro Tem Johnson-Burick: if the applicant decides to reapply, would it come to the board for the exception or would the trustees put it on the agenda as an exception.

Mr. Cervantes: yes, two trustees would need to put it on the agenda, it would be a simple majority vote.

Mayor Pro Tem Johnson-Burick: feels this will be singling out this specific case and setting a precedence.

Mr. Cervantes: that is correct.

Mayor Pro Tem Johnson-Burick: must be able to defend our actions in court

Mr. Cervantes: recommends taking everything into consideration.

Trustee Cadena: referred to rules and procedures compared to the ordinances.

Mr. Cervantes: referred to the resolution.

Trustee Cadena: concerned with making the exception. This case started February 9th, here we are in May. She understands supermajority but feels the size of the board, the fraction throws it off. If there was a bigger board that would not be an issue. She would like to look at that. Asked him for his advice on moving forward. Issues with the process have come forth.

Mr. Cervantes: issues that arise are complicated.

Trustee Cadena: asked Mr. Cervantes if he can help the board put it together, does not want this to reoccur.

Mr. Cervantes: increasing the board would not change the fraction.

Trustee Cadena: as a new member she would like to make things clearer.

Mr. Cervantes: referred to Attorney General Office and State Statutes; same as the ordinance.

Trustee Cadena: once you know it; would like it to be clearer.

Mr. Cervantes: believes the Town of Mesilla ordinances are clear. The Board of Trustees are the policy makers he is not.

Trustee Cadena: the appeal process is clear.

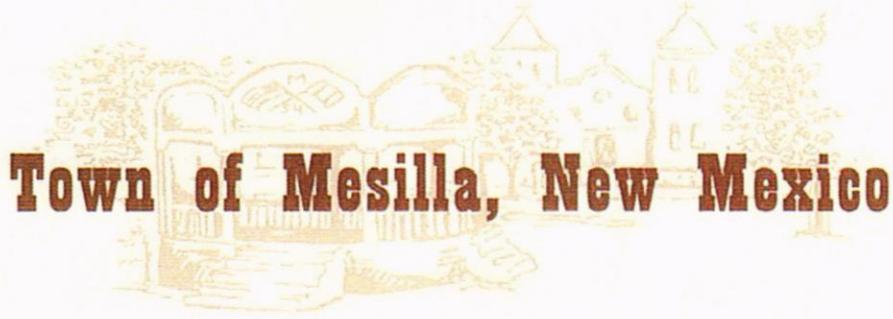
Mayor Barraza: feels the board followed the required process. Prior to the meeting she read the ordinance aloud. After the vote, Ms. Maya stated the motion did pass and I stated the motion was denied due to the supermajority requirement. She was aware of the timeline. A certified letter was mailed to the wrong address. Ms. Bush did give Mr. Lucero a copy of the letter that was mailed. Trustees requested placing the case back on the agenda which she was not comfortable doing until she spoke to Mr. Cervantes. The case was on the agenda as an appeal process item.

Trustee Garcia: suggested that Mr. Cervantes attend meetings with appeal items.

Mr. Cervantes: he relies on their good judgement; referred to Verizon case.

Trustee Garcia: thanked Mr. Cervantes for the legislative funds he gave the town.

Worksession ended 6:03 p.m.



Town of Mesilla, New Mexico

BOARD OF TRUSTEES (BOT)

TOWN OF MESILLA

REGULAR MEETING

MONDAY, MAY 9, 2022

MINUTES

TRUSTEES: Nora Barraza, Mayor
Stephanie Johnson-Burick, Mayor Pro Tem
Biviana Cadena, Trustee
Veronica Garcia, Trustee
Adrianna Merrick, Trustee

STAFF: Rani Bush, Town Clerk/Treasurer
Ben Azcarate Lieutenant
Kevin Hoban, Fire Chief
Rod McGillivray, Public Works Director
Gloria Maya, Recorder

PUBLIC: Susan Krueger
A German
Crystal Davis-Whited
Anthony Lucero
Russell Hernandez
Greg Whited

1. PLEDGE OF ALLEGIANCE

Mayor Barraza led the Pledge of Allegiance.

2. ROLL CALL & DETERMINATION OF A QUORUM

Roll Call.

Present: Mayor Barraza, Mayor Pro Tem Johnson-Burick, Trustee Cadena, Trustee Garcia, Trustee Merrick.

3. CHANGES TO THE AGENDA & APPROVAL

Motion: To approve agenda, Moved by Mayor Pro Tem Johnson-Burick, Seconded by Trustee Merrick.

Roll Call Vote: Motion passed (summary: Yes =4).

Mayor Pro Tem Johnson-Burick Yes
Trustee Cadena Yes
Trustee Garcia Yes
Trustee Merrick Yes

4. PUBLIC INPUT – The public is invited to address the Board for up to 3 minutes.

Mr. Hernandez stated Experience Mesilla held a great meeting; this brings the community together. He asked what the process is for adding an item to the agenda accordingly and appropriately. Concerned if there are two

trustees asking questions in terms of a rolling quorum. A board can change an ordinance to make it clearer and easier to understand.

Mr. Lucero stated this has been an informative meeting. He understands that trustees can request to put something back on the agenda. Verifying an address could be as simple as picking up a phone. He holds the mayor accountable, even though someone else may have made the mistake. As a leader he holds her accountable for everything that comes out of this town hall. Taking responsibility for someone's actions is what makes a good leader.

5. APPROVAL OF CONSENT AGENDA: (The Board will be asked to approve by one motion the following items of recurring or routine business. The Consent Agenda is marked with an asterisk *)

Mayor Barraza stated the rock wall on Case #61380 is 3 ft. not 2 ft. in height.

Motion: To approve consent agenda as amended, Moved by Mayor Pro Tem Johnson-Burick, Seconded by Trustee Merrick.

Roll Call Vote: Motion passed (summary: Yes =4).

Mayor Pro Tem Johnson-Burick Yes

Trustee Cadena Yes

Trustee Garcia Yes

Trustee Merrick Yes

- a) ***BOT MINUTES** - Minutes of Regular Meeting, April 25, 2022. *Approved by consent agenda*
- b) ***PZHAC Case #061377** - 2305 Calle de Colon, submitted by Gerard Nevarez for a gutter system in front of house. **Zoned: Historical (HR).** *Approved by consent agenda*
- c) ***PZHAC Case #061380** - 2101 Calle Del Norte submitted by Juan Caro to construct a two-foot rock wall in front and increasing the height towards the back of property; height will be three-feet not two-feet. **Zoned: Historical Residential (HR).** *Approved by consent agenda*

6. REPORTS

- a) Public Works Department

Mr. McGillivray gave an overview of the Calle del Norte Phase II construction contract. He asked that they call him with any questions.

Mayor Barraza asked him to email the trustees with the information.

7. NEW BUSINESS

- a) **For Approval:** The construction contract with A Mountain Construction Company for \$674,206.08 up to the grant amount. This is Molzen Corbin's recommendation regarding the bid opening for Calle del Norte Phase II.

Motion: To approve the construction contract with A Mountain Construction Company for \$674,206.08 up to the grant amount. This is Molzen/Corbin's recommendation regarding the bid opening for Calle del Norte Phase II, Moved by Mayor Pro Tem Johnson-Burick, Seconded by Trustee Garcia.

Mayor Pro Tem Johnson-Burick asked if this the first time going out to bid for Phase II.

Mr. McGillivray responded yes this is the first time. EBID did not allow us to go through the lateral which caused a delay.

Mayor Pro Tem Johnson-Burick stated believes due to inflation prices have risen.

Roll Call Vote: Motion passed (**summary:** Yes =4).

Mayor Pro Tem Johnson-Burick Yes

Trustee Cadena Yes

Trustee Garcia Yes

Trustee Merrick Yes

8. BOARD OF TRUSTEE COMMITTEE REPORTS

Trustee Merrick: MPO meeting Wednesday

Mayor Pro Tem Johnson-Burick: MPO meeting Wednesday, she will not attend

Mayor Barraza: MPO meeting Wednesday

9. BOARD OF TRUSTEE/STAFF COMMENTS

Ms. Bush stated she will be scheduling a Budget Worksession next week. She would like to place it on the May 23rd agenda with a Public Hearing prior to voting on the item that evening. She attended the Colonia board meeting who stated they are happy to see Mesilla has applied for funding. A GRT report has been provided.

Fire Chief Hoban stated he did not see staff reports on the agenda. New Mexico is suffering during this fire season. The Bosque just west of Mesilla had 45 acres burn. He will be presenting proposed restrictions at the next meeting and providing proper information.

Mayor Barraza responded they are not on the agenda since they do not have to be approved but are in the packet for review.

Trustee Cadena asked that there be something in writing describing the process for putting something on the agenda.

Mayor Barraza responded that the request be emailed to her and there may be times that she will need to do some research prior to placing an item on the agenda. She will do a better job in communicating with the trustees.

Trustee Cadena stated she understands they will receive confirmation regarding their request. Mr. Hernandez' comment regarding the rolling quorum is a concern when there needs to be two trustees making a request.

Mayor Barraza stated she likes to have a discussion with the trustees since she may be able to answer or address the concerns before placing something on the agenda. She usually puts an item on the agenda even if it is only one person making the request.

Trustee Cadena stated she would like to clarify things she does not understand. There is a concern that the information provided to the trustees are different from book to book.

Mayor Barraza responded she is happy to sit with her. She is concerned as well that there are discrepancies on what was provided to the trustees.

Trustee Merrick thanked Mayor Barraza and Ms. Sellers for attending Experience Mesilla meeting. Cinco de Mayo Fiesta was a good event.

Mayor Pro Tem Johnson-Burick stated we had a good turn out at the Cinco de Mayo, so welcoming.

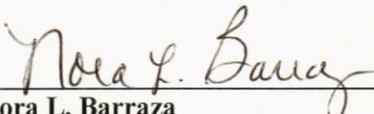
Mayor Barraza asked the board to contact her with concerns or questions. Many times, she can address their concerns prior to the meetings. Board meetings are to take care of business. The attorney verified that she followed the process regarding Mr. Lucero. She took Trustee Cadena's question of why did the PZHAC chairperson vote to Mr. Cervantes. He stated that the PZHAC is an appointed commission not an elected position, so all commissioners do vote. This case was during the time we were short staffed and attempted to meet all the deadlines. Believes she did follow the process. Cinco de Mayo went very well even though there were a lot of activities going on. Thanked everyone for working together.

10. ADJOURNMENT

The Town of Mesilla Trustees unanimously agreed to adjourn the meeting. (Summary: Yes-4).

MEETING ADJOURNED AT 6:39 P.M.

APPROVED THIS 23rd DAY OF MAY, 2022.



Nora L. Barraza
Mayor

ATTEST:



Rani Bush
Town Clerk/Treasurer

